

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

KARAM PRASAD LLC d/b/a BISHOP OF
SEVENTH, a New York limited liability
company,

Plaintiff,

-against-

CACHE, INC., a Florida corporation,

Defendant.

07 CV 5785 (PAC) (JCF)

DECLARATION OF TAMAR Y. DUVDEVANI

TAMAR Y. DUVDEVANI declares under penalty of perjury that the following is true and correct:

1. I am an attorney admitted to practice in the state of New York and before the United States District Court for the Southern District of New York. I am an associate of Nixon Peabody LLP, counsel to Defendant Caché, Inc. ("Cache"). I submit this Declaration in opposition to Plaintiff Karam Prasad LLC d/b/a Bishop of Seventh's ("Prasad") motion for a preliminary injunction.
2. Prasad did not seek permission to make its instant motion for preliminary relief until July 19, 2007. A true and complete copy of Prasad's letter to the Court evidencing this fact is annexed as Exhibit A.
3. In response to Prasad's letter, this Court offered the parties several dates to appear for a pre-motion conference, the earliest of which was July 26, 2007. A true and complete copy of the e-mail received by the Court evidencing this fact is annexed as Exhibit B.

4. The undersigned counsel for Cache agreed to the July 26 date, but counsel for Prasad opted for August 7, 2007, the last of the four dates offered by the Court. E-mails evidencing these facts are annexed as Exhibit C.

5. I have conducted a search of the United States Patent and Trademark Office (“USPTO”) to look for all trademark applications filed by “Karam Prasad” or “Bishop of Seventh.” As of the date of this Declaration, I found that Prasad has applications (both live and dead) on file with the USPTO for seven trademarks. None of those applications are for any of the alleged marks at issue in this action. Prasad’s trademark applications are annexed as Exhibit D.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 17th day of August, 2007.

/s/ Tamar Duvdevani
Tamar Y. Duvdevani (TD 7603)

UNITED STATES DISTRICT COURT
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CACHE, INC., a Florida corporation,

Defendant.

07 CV 5785 (PAC) (JCF)

DECLARATION OF TAMAR Y. DUVDEVANI

EXHIBIT A

Duvdevani, Tamar

From: Edward F. Westfield Jr. [efwjr@efwpc.com]
Sent: Thursday, July 19, 2007 12:05 PM
To: Duvdevani, Tamar
Cc: culver@mwzb.com
Subject: Karam Prasad LLC d/b/a/ Bishop of Seventh v. Cache, Inc.; Case No. 07 CV 5785 (PAC) (JCF) (S.D.N.Y.)
Attachments: 07cv5785.letter.judgecrotty.premotion.20070718.pdf

Tamar:

We represent plaintiff in the above-referenced action. Please see the attached letter to Judge Crotty requesting a pre-motion conference per His Honor's Individual Practices.

-EWJr 19.july.2007

Edward F. Westfield Jr.
Attorney at Law
(212) 532-6625 ext. 12
(646) 296-1249 cellular
efwjr@efwpc.com

EDWARD F. WESTFIELD, P.C.
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www.efwpc.com

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8/16/2007

EDWARD F. WESTFIELD, P.C.

ATTORNEYS AT LAW
274 MADISON AVENUE, SUITE 1601
NEW YORK, NY 10016-0701

EDWARD F. WESTFIELD

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WWW.EFWPC.COM

WRITER'S EMAIL ADDRESS
efwjr@efwpc.com

June 19, 2007

VIA ECF AND HAND DELIVERY

Hon. Paul A. Crotty, U.S.D.J.
United States District Court, S.D.N.Y.
500 Pearl St., Rm. 735
New York, NY 10007-1316

**Re: Karam Prasad LLC d/b/a/ Bishop of
Seventh v. Cache, Inc.;**
Case No. 07 CV 5785 (PAC)(JCF)

Dear Judge Crotty:

Our firm represents the plaintiff as local counsel in the above-referenced action. Per paragraph 3A and 3C of Your Honor's Individual Practices, we write to request a pre-motion conference.

This action is for infringement of trademarks and trade dress under related federal and state claims. We have alleged that defendant has manufactured and marketed blue jeans that copy the marks and trade dress of plaintiff's blue jeans. Therefore, we seek a motion for preliminary injunction enjoining defendant's infringing conduct and unfair competition under New York common law.

This is a case of slavish copying by defendant. Even a cursory examination of the products in question (a side-by-side product photograph is attached hereto as Exhibit A) demonstrates defendant's blatant and wholesale misappropriation of plaintiff's intellectual property. Defendant's copying includes use of plaintiff's logo and inlaid crystals on the back pockets of the jeans, as seen in Exhibit A. This is not a case calling for nuances and fine points in determining the similarities at hand. A likelihood of confusion for the public is thus also clearly at hand, and defendant should be enjoined before its infringement inflicts further irreparable harm on plaintiff.

EDWARD F. WESTFIELD, P.C.

Hon. Paul A. Crotty, U.S.D.J.
Re: Karam Prasad LLC d/b/a/
Bishop of Seventh v. Cache, Inc.
Case No. 07 CV 5785 (PAC)(JCF)
July 19, 2007
Page 2 of 2

We are available for a conference at the Court's earliest convenience. We appreciate the Court's consideration of this request.

Respectfully,

EDWARD F. WESTFIELD, P.C.

By: s/
Edward F. Westfield Jr.
(212) 532-6625 ext. 12
efwjr@efwpc.com

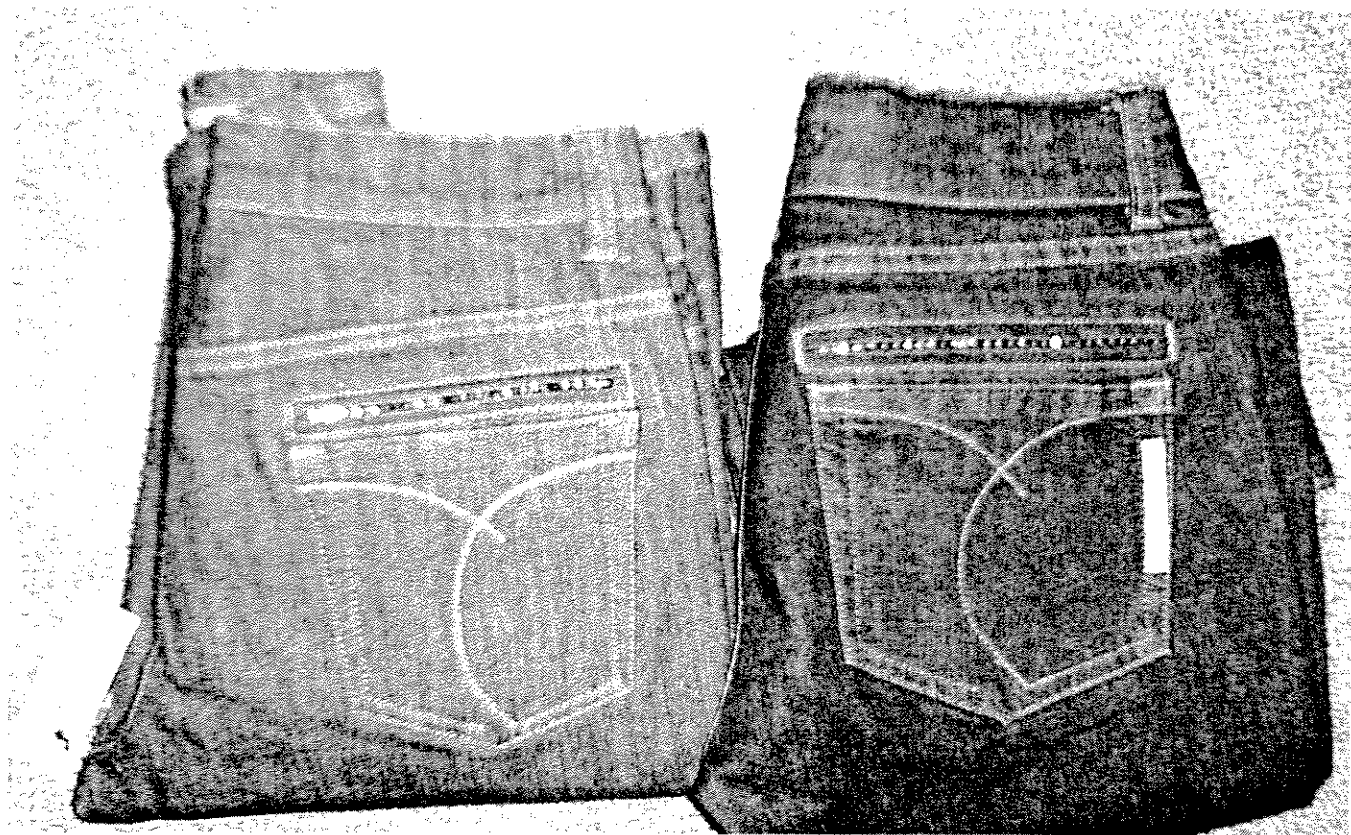
Enclosures

CC: Tamar Duvdevani, Esq.
Nixon Peabody LLP
Attorneys for Defendant
437 Madison Ave., Fl. 23
New York, NY 10022-7039
(212) 940-3000 tel.
(212) 940-3111 fax
tduvdevani@nixonpeabody.com

Michael S. Culver, Esq.
Millen, White, Zelano & Branigan, P.C.
Attorneys for Plaintiff (lead counsel)
2200 Clarendon Blvd., Ste. 1400
Arlington, VA 22201-3360
(703) 243-6333 tel.
(703) 243-6410 fax
culver@mwzb.com

Exhibit A

Exhibit A



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

KARAM PRASAD LLC d/b/a BISHOP OF
SEVENTH, a New York limited liability
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Plaintiff,

-against-

CACHE, INC., a Florida corporation,

Defendant.

07 CV 5785 (PAC) (JCF)

DECLARATION OF TAMAR Y. DUVDEVANI

EXHIBIT B

Duvdevani, Tamar

From: Marlon_Ovalles@nysd.uscourts.gov
Sent: Wednesday, July 25, 2007 9:03 AM
To: efwj@efwpc.com; Duvdevani, Tamar
Subject: Karam Prasad LLC v. Cache, Inc 07 Civ 5785 (PAC)

Good Morning,

Pursuant to the July 19 and 23, 2007 letters from Edward F. Westfield, and the July 20, 2007 letter from Tamar Duvdevani, Judge Crotty would like **all** counsel to agree upon **three** dates for a pre-motion conference.

Once all counsel have agreed upon the three dates, **Edward F. Westfield** shall send me a **single email** in response with the agreed upon dates. As soon as I receive the dates, I'll determine which date works best for Judge Crotty and advise you all of the date and time of the conference by (1) entering a calendar entry on ECF and (2) sending you a confirmation email.

Please keep in mind while agreeing on the dates that Judge Crotty will not be in the SDNY throughout the week of August 13, 2007. For your convenience I've included dates below in which Judge Crotty is available as of today below. Thank you.

07/26/07: 2:45 p.m
07/31/07: 11:00 a.m
08/02/2007: 11:45 p.m
08/07/2007: 3:00 p.m

Marlon Ovalles
Courtroom Deputy to the Hon. Paul A. Crotty, U.S.D.J
United States District Court
Southern District of New York
500 Pearl Street
Chambers 735
Courtroom 20 C
New York, NY 10007
T - 212-805-6312
F - 212-805 -6304
E-Mail - Marlon_Ovalles@nysd.uscourts.gov

8/16/2007

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

KARAM PRASAD LLC d/b/a BISHOP OF
SEVENTH, a New York limited liability
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Plaintiff,

-against-

CACHE, INC., a Florida corporation,

Defendant.

07 CV 5785 (PAC) (JCF)

DECLARATION OF TAMAR Y. DUVDEVANI

EXHIBIT C

Duvdevani, Tamar

From: Edward F. Westfield Jr. [efwjr@efwpc.com]
Sent: Thursday, July 26, 2007 1:21 PM
To: Duvdevani, Tamar
Cc: Ryan, Frank; culver@mwzb.com
Subject: RE: Karam Prasad LLC v. Cache, Inc 07 Civ 5785 (PAC)
Attachments: 07cv5785.prohac.order.SIGNED.culver.michael.pdf

Tamar:

I just left a message with your office. I spoke with Mike Culver and he is available for August 7 @ 3:00 p.m. I will out of town on vacation then, but since Mike has been admitted pro hac vice on this case (see attached order) he can appear for the plaintiff.

Please call or email to confirm and I will notify the Court Deputy.

Thank you.

-EWJr 26.july.2007

Edward F. Westfield Jr.
(212) 532-6625 ext. 12
(212) 532-6627 fax
(646) 296-1249 cellular
efwjr@efwpc.com

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From: Duvdevani, Tamar [mailto:tduvdevani@nixonpeabody.com]
Sent: Thursday, July 26, 2007 11:12 AM
To: Edward F. Westfield Jr.
Cc: Ryan, Frank; culver@mwzb.com
Subject: RE: Karam Prasad LLC v. Cache, Inc 07 Civ 5785 (PAC)

Any news? Obviously today is now out of the picture.

Tamar Y. Duvdevani
Nixon Peabody LLP
437 Madison Avenue
☎ (212) 940-3710
📠 (866) 851-1047
✉ tduvdevani@nixonpeabody.com

8/16/2007

From: Edward F. Westfield Jr. [mailto:efwjr@efwpc.com]
Sent: Wednesday, July 25, 2007 11:36 AM
To: Duvdevani, Tamar
Cc: Ryan, Frank; culver@mwzb.com
Subject: RE: Karam Prasad LLC v. Cache, Inc 07 Civ 5785 (PAC)

I'll be on vacation 8/6 to 8/19.

07/31 & 08/02 work better for me.

Have call into Mike Culver to see his availability.

We will be in touch shortly.

-EWJr 25.july.2007

Edward F. Westfield Jr.
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efwjr@efwpc.com

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From: Duvdevani, Tamar [mailto:tduvdevani@nixonpeabody.com]
Sent: Wednesday, July 25, 2007 10:45 AM
To: Edward F. Westfield Jr.
Cc: Ryan, Frank
Subject: FW: Karam Prasad LLC v. Cache, Inc 07 Civ 5785 (PAC)

7/26 or 8/7 work on this end. The other dates below do not, and after the 13 of August the next thing that works is in September.

If either of those work for you and we advise immediately the deputy should be able to schedule it.

Tamar Y. Duvdevani
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From: Duvdevani, Tamar [mailto:tduvdevani@nixonpeabody.com]
Sent: Wednesday, July 25, 2007 10:45 AM
To: Edward F. Westfield Jr.
Cc: Ryan, Frank
Subject: FW: Karam Prasad LLC v. Cache, Inc 07 Civ 5785 (PAC)

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Courtroom Deputy to the Hon. Paul A. Crotty, U.S.D.J
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8/16/2007

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07 CV 5785 (PAC) (JCF)

DECLARATION OF TAMAR Y. DUVDEVANI

EXHIBIT D



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Goods and Services	IC 025. US 022 039. G & S: clothing, namely, jeans, tops. FIRST USE: 20050000. FIRST USE IN COMMERCE: 20050000
Mark Drawing Code	(2) DESIGN ONLY
Design Search Code	02.11.08 - Feet, human; Foot prints, human; Human feet, toes, imprints of feet or toes, legs; Imprints, feet or toes 03.01.01 - Lions 03.01.16 - Heads of cats, dogs, wolves, foxes, bears, lions, tigers 03.01.24 - Stylized cats, dogs, wolves, foxes, bears, lions, tigers
Serial Number	78635871
Filing Date	May 24, 2005
Current Filing Basis	1B
Original Filing Basis	1B
Published for Opposition	September 19, 2006
Owner	(APPLICANT) Karam Prasad, LLC LTD LIAB CO NEW YORK 3 Livingston Ave. White Plains NEW YORK 10605
Attorney of Record	Scott J. Major
Description of Mark	Color is not claimed as a feature of the mark. The mark consists of a figure with lion heads and human legs.
Type of Mark	TRADEMARK
Register	PRINCIPAL
Live/Dead Indicator	LIVE



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BISHOP OF SEVENTH

Word Mark	BISHOP OF SEVENTH
Goods and Services	IC 025. US 022 039. G & S: jeans and tops. FIRST USE: 20051000. FIRST USE IN COMMERCE: 20060200
Standard Characters Claimed	
Mark Drawing Code	(4) STANDARD CHARACTER MARK
Serial Number	78978614
Filing Date	November 28, 2005
Current Filing Basis	1B
Original Filing Basis	1B
Published for Opposition	September 26, 2006
Owner	(APPLICANT) Karam Prasad, LLC LTD LIAB CO NEW YORK 3 Livingston Avenue White Plains NEW YORK 10605
Attorney of Record	Scott J. Major
Type of Mark	TRADEMARK
Register	PRINCIPAL
Live/Dead Indicator	LIVE

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BISHOP OF SEVENTH

Word Mark	BISHOP OF SEVENTH
Goods and Services	IC 025. US 022 039. G & S: Footwear, dresses, skirts and jackets
Standard Characters Claimed	
Mark Drawing Code	(4) STANDARD CHARACTER MARK
Serial Number	78762060
Filing Date	November 28, 2005
Current Filing Basis	1B
Original Filing Basis	1B
Published for Opposition	September 26, 2006
Owner	(APPLICANT) Karam Prasad, LLC LTD LIAB CO NEW YORK 3 Livingston Avenue White Plains NEW YORK 10605
Attorney of Record	Scott J. Major
Type of Mark	TRADEMARK
Register	PRINCIPAL
Live/Dead Indicator	LIVE

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[TARR Status](#) [ASSIGN Status](#) [TDR](#) [TTAB Status](#) (Use the "Back" button of the Internet
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PRASAD

Word Mark	PRASAD
Goods and Services	(ABANDONED) IC 025. US 022 039. G & S: Footwear and clothing, namely, jeans, tops, dresses, skirts and jackets
Standard Characters Claimed	
Mark Drawing Code	(4) STANDARD CHARACTER MARK
Serial Number	78635858
Filing Date	May 24, 2005
Current Filing Basis	1B
Original Filing Basis	1B
Published for Opposition	August 29, 2006
Owner	(APPLICANT) Karam Prasad, LLC LTD LIAB CO NEW YORK 3 Livingston Ave. White Plains NEW YORK 10605
Attorney of Record	Scott J. Major
Type of Mark	TRADEMARK
Register	PRINCIPAL
Live/Dead Indicator	DEAD
Abandonment Date	February 21, 2007

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PURPLE COTTON

Word Mark	PURPLE COTTON
Goods and Services	(ABANDONED) IC 025. US 022 039. G & S: Footwear and clothing, namely, jeans, tops, dresses, skirts and jackets
Standard Characters Claimed	
Mark Drawing Code	(4) STANDARD CHARACTER MARK
Serial Number	78654386
Filing Date	June 20, 2005
Current Filing Basis	1B
Original Filing Basis	1B
Owner	(APPLICANT) Karam Prasad, LLC LTD LIAB CO NEW YORK 3 Livingston Avenue White Plains NEW YORK 10605
Attorney of Record	Scott J. Major
Type of Mark	TRADEMARK
Register	PRINCIPAL
Live/Dead Indicator	DEAD
Abandonment Date	January 30, 2007

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BISHOP

Word Mark	BISHOP
Goods and Services	IC 025. US 022 039. G & S: Clothing, footwear, handbags and accessories
Standard Characters Claimed	
Mark Drawing Code	(4) STANDARD CHARACTER MARK
Serial Number	77126836
Filing Date	March 9, 2007
Current Filing Basis	1B
Original Filing Basis	1B
Owner	(APPLICANT) Karam Prasad, LLC LTD LIAB CO NEW YORK 3 Livingston Avenue White Plains NEW YORK 10605
Attorney of Record	Scott J. Major
Type of Mark	TRADEMARK
Register	PRINCIPAL
Live/Dead Indicator	LIVE

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Goods and Services	IC 025. US 022 039. G & S: Footwear and clothing, including jeans, tops, dresses, skirts and jackets
Mark Drawing Code	(2) DESIGN ONLY
Design Search Code	24.13.01 - Cross, Latin (shorter horizontal lines); Latin cross (shorter horizontal lines) 24.13.25 - Cross, ankh; Cross, Maltese; Other crosses, including ankh, Maltese
Serial Number	77055414
Filing Date	December 1, 2006
Current Filing Basis	1B
Original Filing Basis	1B
Owner	(APPLICANT) Karam Prasad, LLC LTD LIAB CO NEW YORK 3 Livingston Avenue White Plains NEW YORK 10605
Attorney of Record	Scott J. Major
Description of Mark	The mark consists of a stylized cross .
Type of Mark	TRADEMARK
Register	PRINCIPAL
Live/Dead Indicator	LIVE